

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

TARAY LAVALE DAVID,

Defendant

NO. CR17-004 RSM

ORDER DENYING DEFENDANT'S
MOTION FOR RECONSIDERATION

This matter comes before the Court on the Defendant's Motion for Reconsideration (Dkt. 160). Having considered the entire record in this matter and being fully advised, the Court DENIES the motion.

The new materials submitted by the defense do not change the Court's analysis of the evidence or its findings that Sergeant Anh Hoang's testimony is credible and reliable, that B.C.'s initial statements in her 911 call (Gov't Ex. 1) and to Sergeant Hoang (Gov't Ex. 6A) while she was under the stress of a traumatic and startling event are credible and reliable, and that B.C.'s subsequent inconsistent statements to Detective Rios and Defense Investigator Echeverria are not credible or reliable. The new evidence and argument that Defendant submitted also does not change the court's conclusion that the government has shown by a preponderance of the evidence that defendant possessed a

1 firearm in violation of the terms of his supervised release. The declaration and
2 photographs do not have either sufficient detail or indicia of reliability for the Court to
3 conclude that they fairly and accurately depict the damage to B.C.'s tire on March 27,
4 2021, or the condition of the tire when it was replaced.

5 The Court incorporates its oral findings and conclusions as stated at the
6 evidentiary hearing, including its conclusion that the balance of defendant's due process
7 rights against B.C.'s invocation of her Fifth Amendment rights and resultant
8 unavailability weighed in favor of the Court admitting Government Exhibits 1 and 6A,
9 while also considering B.C.'s subsequent contradictory and impeaching statements to
10 Detective Rios and Defense Investigator Echeverria. Defendant's new submissions do
11 not change that balance.

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13 IT IS SO ORDERED this 2nd day of August, 2021.

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17 RICARDO S. MARTINEZ
18 CHIEF UNITED STATES DISTRICT JUDGE
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